

APR. 27. 2005 12:02PM

TTC-PA 650-326-2422

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PTO/SB/21 (08-04)

TRANSMITTAL FORM		Application Number	09/724,319
		Filing Date	November 27, 2000
		First Named Inventor	Schenk, Dale B.
		Art Unit	1647
		Examiner Name	Nichols
(to be used for all correspondence after initial filing) Total Number of Pages in This Submission		30	Attorney Docket Number 15270J-004743US

ENCLOSURES (Check all that apply)			
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Copies of the following papers filed September 21, 2004: 1. Transmittal Form (1 pg.); 2. Amendment (21 pgs.); 3. Declaration Under MPEP § 2406.02 (2 pgs.) with attached Exhibit 1 (1 pg.); 4. Petition for Extension of Time Under 37 C.F.R. § 1.138(a) (1 pg., submitted in duplicate); 5. Return Receipt Postcard; and, 6. Date stamped of Return Receipt Postcard.	
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement		<input type="checkbox"/> Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.	
<input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	Rosemarie L. Celli		
Date	April 27, 2005	Reg. No.	42,397

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. (703) 872-9306 on April 27, 2005.

Signature			
Typed or printed name	Rosemarie L. Celli	Date	April 27, 2005

APR 27 2005

PATENTAttorney Docket No.: 15270J-004743US
Client Ref. No.: 209-US-CIP5C3

Application No: 09/724,319
 Applicant: Dale B. Schenk
 Filed: November 27, 2000
 TC/A.U. 1647
 Examiner: Christopher J. Nichols
 Docket No: 15270J-004743US
 Customer No: 20350

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

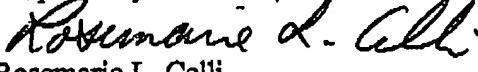
A review of the PAIR report for the above-captioned case shows the response filed September 21, 2004 to the Office Action mailed April 26, 2004 has not been entered. Application re-submits copies of the following papers (attached hereto) filed on September 21, 2005 and requests entry of the same:

1. Transmittal Form (1 pg.);
2. Amendment (21 pgs.);
3. Declaration Under MPEP § 2406.02 (2 pgs) with attached Exhibit 1 (1 page);
4. Petition for Extension of Time Under 37 C.F.R. § 1.136(a) (1 pg., submitted in duplicate; and
6. Return Receipt Postcard.

The response was filed September 21, 2004 as evidenced by the Return Receipt Postcard bearing the Patent & Trademark Office date stamp of September 21, 2004, a copy of which is also attached hereto.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


 Rosemarie L. Celli
 Reg. No. 42,397

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 Two Embarcadero Center, Eighth Floor
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 Fax: 650-326-2422

UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Date: July 30, 2004

Via First Class Mail On September 21, 2004

Application of: Dale B. Schenk

Application No.: 09/724,319

Filed: November 27, 2000

Please stamp the date of receipt of the enclosed documents and return this card to addressee:

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6. Return Receipt Postcard.

File No. 15270J-004743US

Atty/Secty: R. Celli/aeb

UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Date: July 30, 2004

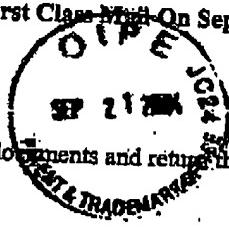
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File No. 15270J-004743US

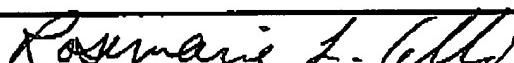
Atty/Secty: R. Celli/aeb

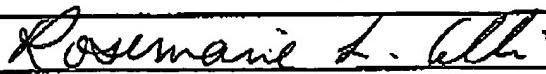
PTO/88/21 (09-04)

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<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter	
<input checked="" type="checkbox"/> Extension of Time Request (1 page, submitted in duplicate)	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):	
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	1. Declaration Under MPEP § 2406.03 (2 pages) with attached Exhibit 1 (1 page); and,	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	2. Return Postcard	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> Landscape Table on CD	
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<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53			
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	Rosemarie L. Celli		
Date	September 21, 2004	Reg. No.	42,397

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Rosemarie L. Celli	Date	September 21, 2004

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-3700 • FAX: 703-365-3745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

INTERNATIONAL FORM

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.3**

To: (Name and Address of Depositor or Attorney)

Elian Pharmaceuticals, Inc.
Attn: Nina Ashton
800 Gateway Boulevard
South San Francisco, CA 94080

Deposited on Behalf of: Elian Pharmaceuticals, Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Hybridoma resulting from fusion of SP2/0 with A/J mouse spleen: 266.2

PTA-6123

The deposit was accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposit was received July 20, 2004 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture or the sample.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested July 20, 2004. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:



Marie Harris, Patent Specialist, ATCC Patent Depository

Date: July 20, 2004

cc: Joe Liebeschuetz
Docket or Case No.: 15270J-004720US

Exhibit 1